

## **TITLE 28. WATER.**

### **Chapter 28.01. Water.**

#### **28.01.010. Superintendent of Waterworks.**

The mayor, by and with the consent of the Council, may appoint a superintendent of waterworks whose duties shall be to manage and direct all business connected with or pertaining to the waterworks system.

#### **28.01.020. Names of Waterworks. Construction of Reservoirs. Installation of Mains, Etc.**

The waterworks constructed by Brigham City Corporation to supply the City with culinary water shall be designated and known as the Brigham City Waterworks. The mayor and Council may authorize the construction of storage reservoirs and the installation of water mains, services and fire hydrants, as the necessities of the inhabitants of the City may require, and make such rules and regulations as may from time to time become necessary to properly service and supply the inhabitants of the City with water.

#### **28.01.030. Damage to Waterworks Property.**

Any person who shall willfully and without authority from the superintendent of waterworks remove or damage any dam, bulkhead, gate, gatehouse, conduit, air vent, air box, cover, main pipe, culvert or surface box, or raise or open any gate or break down or force open any doors of the waterworks system executed, constructed or maintained for the purpose of supplying water to the inhabitants of the City shall be deemed guilty of a misdemeanor.

#### **28.01.040. Fire Hydrants.**

A. No building permit shall be issued for construction of a new dwelling structure unless said structure or some portion thereof shall lie within a distance of 300 lineal feet as measured from the structure to the right of way and along the right of way to the nearest fire hydrant. This requirement shall not apply to lots which are identified and platted at the Box Elder County recorder's Office prior to November 1, 1986. The sections shall apply in the event that any lot as shown on the official plats as of that date is subdivided or altered in its shape or size.

B. The Superintendent of Waterworks shall be responsible for making the determination of the location of all fire hydrants installed within the corporate limits of Brigham City.

C. Wrenches for the fire hydrants shall be furnished by the superintendent of waterworks to the fire department for its use, and to such other persons as he may deem proper. Any member or officer of the fire department or any person having charge of one or more of such wrenches who shall permit the same to be taken from their place of deposit or to be used for any other purpose than those authorized by the superintendent of waterworks shall be liable to the City for all damage occasioned thereby.

#### **28.01.050. Opening Or closing Fire Hydrant.**

It shall be unlawful for any person to open or close any fire hydrant within the corporate limits of the City or to attempt to open or close, by the use of any wrench or other device any such hydrant without first having obtained from the mayor and Council or the superintendent of waterworks permission so to do; provided, that this section shall not apply to any volunteer fireman of the City.

#### **28.01.060. Diverting Water. Injuring Property Used in Distributing Water.**

Every person who, in violation of any right of any other person, willfully turns or uses the water, or any part thereof, of any canal, ditch, pipeline, or reservoir, except at a time when the use of the water has been duly distributed to the person, or willfully uses any greater quantity of the water than has been duly distributed to him, or in any way changes the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change, or willfully and maliciously breaks or injures any dam, canal, pipeline, watergate, ditch, or other means of diverting or conveying water for irrigation or other useful purposes, is guilty of a class B misdemeanor. (U.C.A. 76-10-202).

#### **28.01.070. Service Installation Charges.**

Upon written application and by authority of the Council, the superintendent of waterworks shall supervise and cause to be installed and maintained services to the water customers from the water main to a point ten feet from the property line. At that point a stop clock, curb box, meter and necessary fittings shall be installed. A separate service shall be installed to each customer. Standard galvanized or copper pipe shall be used for all services and three-fourth inch diameter shall be the minimum.

For the installation and connection of service lines, materials shall be furnished, and charges made sufficient to cover actual costs thereof as determined by resolution by the Brigham City Council.

The Brigham City Council shall periodically determine the actual costs to Brigham City of all such installations and shall hereafter by resolution duly passed, fix the charges for water service installations.

**28.01.080. When Cost of Installing Service Pipe to Be Paid by Applicant. Credit Upon Water Account.**

Where any property is not served by a service water pipe in front of or adjacent to such property and the owner desires a water service connection, such water service connection shall be furnished only on the condition that the owner pay all costs of installing the pipeline, the backfilling and repairing of streets through such property and in addition thereto pay for the meter installation as set out in section 28.01.070; provided that the applicant shall be required to lay the size of pipe which in the opinion of the water superintendent, may be necessary or needful to serve other potential water users in the future along such street, in which event the City shall pay the difference in cost between the size of pipe needed by the applicant and that specified by the water superintendent; provided further, that all costs of installing the pipe to the place of the applicant, which has been paid by the applicant, shall be entered as a credit upon the account of the applicant and all water bills thereafter charged for the use of water shall be charged against such account until the cost of the installation has been paid in full, at which time the service line shall be considered the property of the City.

The credit allowed a property owner on water charges, as provided in this section, shall be limited to a term of five years from the date of the installation of the original connection to the property. Thereafter the property owner, or his successor in interest, shall pay the regular charges for all water consumed upon the premises, with no credit being thereafter allowed.

**28.01.090. Connection Service and Meter Deposits.**

Except where a consumer resides on his own property, a meter deposit shall be required. The amount of the deposit shall be determined by resolution adopted by the City Council. Said meter deposit may be changed by resolution from time to time as the requirements of the City demand. Such deposits shall be held as a guarantee of the payment of all charges for water used and shall be applied, if required, to the payment of any delinquent account of the consumer. At the election of Brigham City, the deposit may be applied to any accounts ~~30~~ <sup>60</sup> days past due without notice to the consumer. All deposits received by the City shall accrue interest at a rate set by resolution of the City Council. The meter deposits shall be returned to the consumer at the completion of water service to the consumer, provided that the consumer is current in all water charges after the water service is terminated.

~~The requirement for a deposit may be waived by the City recorder if the owner of the premises to which service is furnished and the tenant shall sign a written guarantee for the payment of any water accounts that may accrue, substantially as follows:~~

~~\_\_\_\_\_ To Brigham City Corporation, Brigham City, Utah;~~

~~\_\_\_\_\_ 19\_\_\_\_.~~

~~\_\_\_\_\_ Street No. of Premises \_\_\_\_\_~~

~~In consideration of the waiver of a requirement of a meter deposit for water service at the above-named premises, we hereby guarantee the payment of all charges for such services against Mr. \_\_\_\_\_ tenant, or any other tenant or occupant of said premises, until we notify the department in writing to the contrary.~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Tenant~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Owners<sup>2</sup>~~

**28.01.100. Prevention of Pollution Or Contamination Outside City.**

It shall be unlawful for any person, firm, corporation or entity to maintain or erect any buildings, closet, privy, outhouse or urinal, or any buildings, pens or stalls in which shall be kept any horses, cattle, sheep, swine

<sup>1</sup> Ordinance No. 03-37, dated 9/18/03.

<sup>2</sup> This paragraph deleted with Ordinance No. 03-37, dated 9/18/03.

or other animals or to permit any of such animals to be corralled, bedded or run at large within three hundred feet of any stream, reservoir, canal, ditch, pipe, drain, spring, or other source of water from which water for the waterworks system of the City shall be taken, within fifteen miles above the point where the water of such stream, reservoir, canal, ditch, pipe, drain, spring or other source of water is taken into the waterworks system.

It shall be unlawful for any person, firm, corporation or entity to pollute or cause to be polluted, either directly or indirectly, any reservoir, stream, canal, ditch, pipe, drain, spring or other source of water from which water for the waterworks systems of this City shall be taken. Before any person shall be allowed to bring animals onto property or to construct any buildings or improvements which may or which could be construed to cause pollution or contamination of water sources of Brigham City within three hundred feet of any stream, reservoir, canal, ditch, pipe, drain, spring and/or other sources of water or the waterworks from which water for the waterworks of Brigham City shall be taken, they shall first make application to the building inspector of Brigham City and the board of health of the City and shall provide evidence that such building or other improvement shall not cause pollution or contamination of water sources of Brigham City.

It shall likewise be unlawful for any person to construct or maintain within three hundred feet of any such stream, reservoir, canal, pipe, ditch, drain, spring, and/or other source of water within fifteen miles above the point where such water of such source is taken into the City water supply system, any closet, privy, outhouse, septic system, drain field or other sewage system without providing the same with effective pollution control devices satisfactory to the health department of Brigham City and the building inspector such that they guarantee that the water of Brigham City will not be polluted by such construction. Such pollution tanks or other appliances prior to being placed in use, shall be subject to inspection and approval by the board of health of the City.

It shall be unlawful for any person to maintain any camp or any other facility or source within one-half mile of any reservoir, stream, canal, ditch, pipe, drain, spring, or other source of water or source through which water is carried to the waterworks system of this City or within three hundred feet of any stream, spring, or source of water from which water for the waterworks system of this City shall be taken into the waterworks system of this City or to permit any refuse matter of any kind or character to be deposited in or near a reservoir, stream, canal, ditch, pipe, spring or other source of water which is used in connection with the waterworks system of this City. (See 10-8-15, Utah Code Annotated, 1953, as amended).

#### **28.01.110. Fountains.**

All public fountains shall be under the jurisdiction of the superintendent of waterworks.

#### **28.01.120. Street Sprinkling.**

Street sprinkling and flushing shall be under the direction of the superintendent of waterworks.

#### **28.01.130. Access to Places Supplied With Water.**

Free access shall at all ordinary hours be allowed to the superintendent of waterworks, or other authorized persons, to all places supplied with water to examine the apparatus, the amount used and the manner of using the water or to cut off the same. (See 10-7-13, Utah Code Annotated, 1953, as amended).

#### **28.01.140. City Not Liable for Damages for Shutting Off Water.**

The City reserves the right at any time, without notice, to shut off the water from its mains for the purpose of making repairs or extensions or for other purposes and no claim shall be made against the City by reason of any breakage whatsoever or for any damage that may result from the shutting off of water for repairing, laying or relaying mains, hydrants or other connections or for any other reason whatsoever.

#### **28.01.150. Single Connection for More Than One Party.**

Whenever water shall be supplied to more than one party through a single connection or tap, the bill for the whole supply furnished through such connection or tap shall be made to the owner of the property. In case of nonpayment, the water may be shut off notwithstanding one or more parties have paid their portion to any such owner or to any other party.

#### **28.01.160. Schedule of Water Rates. Water and Sewer Charges to Constitute One Charge.**

All water supplied to the inhabitants of Brigham City shall be through water meters, unless otherwise directed by the City Council, and the rates to apply for all water so metered shall be fixed by the City Council by resolution as the Council shall from time to time deem appropriate.

All rates herein provided for shall be charged and combined with the charges provided for in Title 22 as amended and the total thereof shall constitute one charge. If any part of said account for either sewer or water becomes delinquent as in these revised ordinances provided, the water service shall be discontinued by the City until all delinquencies have been paid in full including the reconnection fee.

**28.01.165. Restitution of Payment.**

In the event that water services at a structure are found to have been incorrectly billed, restitution of payment to the customer, or to the Brigham City Water Works, shall only be made on the most current thirty-six (36) month billing period. No claim shall be filed or suits shall be instituted for improper billing outside this time limit.

**28.01.170. Due Date of Water Bills. Delinquency.**

All charges for water furnished by the City shall be billed to the user on any day of the month following a one month period of service to the user and payment therefor shall be due and payable 20 days after such date of billing, and if not paid within 30 days from date of billing, the water may be shut off without notice and without further action of the City Council. Any accounts which are not paid within 20 days after billing shall accrue interest at a rate to be determined by resolution of the City Council. Re-establishment of service may be withheld until all delinquent charges due from such party have been paid in full, together with a service charge for reconnection. The service charge for reconnection shall be determined by resolution of the City Council, and may be amended from time to time by the Council. (See 10-7-11, Utah Code Annotated, 1953, as amended).

**28.01.180. Analysis of City Water.**

It shall be the duty of the Council to make or cause to be made at least once every month an analysis of the water furnished by the City through its water system. The analysis shall be made in accordance with the requirements of the state department of public health.

**28.01.190. Cross Connection Control and Backflow Prevention.**

A. It shall be unlawful at any place supplied with water from the Brigham City Water Distribution System to do any of the following:

1. To install after written notification from Brigham City Water System Manager or use any physical connection or arrangement of piping or fixtures which may allow any fluid or substance not suitable for human consumption to come in contact with potable water in the Brigham City Water Distribution System.

2. To install any connection, arrangement, or fixtures without using a backflow prevention device or assembly designed to prevent a violation of subsection A. Any such device or assembly must be approved for installation by the Brigham City Water System Manager with respect to each application.

3. To install any backflow prevention device or assembly described in subsection B which is not installed as required in the Utah Plumbing Code.

B. Officers and employees of Brigham City shall have the right to enter any place which is supplied with water from the Brigham City Water Distribution System and conduct a hazard survey or any other examination or test reasonably necessary to the enforcement of this section.

C. Any user of water from the Brigham City Water Distribution System, and not Brigham City, shall pay all costs of installation and testing of backflow prevention devices or assemblies.

D. Backflow prevention devices or assemblies required by this section shall be tested not less than once each year by a technician certified by the Safe Drinking Water Committee of the State of Utah. Test results shall be furnished to the Brigham City Water System Manager.

E. Water service may be discontinued to any user who is found to be in violation of this ordinance and who fails to take corrective action within ten (10) days after violation notification, except that water service may be discontinued immediately if an immediate threat to the water supply exists.

F. Any person who violates the provisions of this section shall be civilly liable to Brigham City, and to third persons other than Brigham City, for all damages proximately caused by said violation.

**Chapter 28.02. Drinking Water Source Protection.****28.02.010. Short Title and Purpose.**

A. This ordinance shall be known as the "Drinking Water Source Protection Ordinance."

B. The purpose of this ordinance is to ensure the provision of a safe and sanitary drinking water supply for Brigham City by the establishment of drinking water source protection zones surrounding the wellheads and springs for all wells and springs which are the supply sources for the Brigham City water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

**28.02.020. Definitions.**

When used in this ordinance the following words and phrases shall have the meanings given in this Section:

A. Design Standards - means a control which is implemented by a potential contamination source to prevent discharges to the ground water. Spill protection is an example of design standard.

B. Land Management Strategies - means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, development rights, public education programs, ground water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

C. Pollution Source - means point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, Class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten animal units. The following clarify the definition of pollution sources:

1. Animal Feeding Operation - means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

2. Animal Unit - means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

3. Extremely Hazardous Substances - means those substances which are identified in the Section 302(EHS) column of the "Title III List of Lists - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 560/4-91-011).

D. Potential Contamination Source - means any facility or site which employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.

E. Regulatory Agency - means any governmental agency with jurisdiction over hazardous waste as defined herein.

F. Sanitary Landfill - means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

G. Septic Tank/Drain-field Systems - means a system which is comprised of a septic tank and a drain field which accepts domestic wastewater from buildings of facilities for subsurface treatment and disposal. By their design, septic tank/drain field system discharges cannot be controlled with design standards.

H. Wellhead - means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

I. Spring - means the ground surface outlet of a natural underground spring including spring collection and control boxes, valves, piping and other attachments.

#### **28.02.030. Establishment of Drinking Water Source Protection Zones.**

There is hereby established use districts to be known as zones one, two, three and four of the drinking water source protection area, identified and described as follows:

A. "Zone One" is the area within a 100-foot radius from the wellhead or spring.

B. "Zone Two" is the area within a 250-day groundwater time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

C. "Zone Three" (waiver criteria zone) is the area within a 3-year groundwater time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

D. "Zone Four" is the area within a 15-year ground water time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

#### **28.02.040 Permitted Uses.**

The following uses shall be allowed within the groundwater protection zones:

A. All Zones.

1. Uses established before the effective date of this ordinance and used continuously and in the same manner thereafter, which uses may continue, subject to Section 28.02.050 of this ordinance, provided any such use is not judged by any court of competent jurisdiction to be a nuisance under the provisions of federal, state or local laws or regulations.

2. Uses of single or multiple-family residential dwellings, commercial or institutional uses established on or after the effective date of this ordinance connected to a sanitary sewer system.

3. Uses incidental and accessory to the uses set forth in the two immediately preceding subparagraphs.

B. Zone 4.

1. The tilling of the soil and the raising of crops, provided fertilizing and the use of pesticides is accomplished within federal, state and local guidelines.

2. The pasturing of livestock, provided all forage is raised on the pastured area.

3. Uses incidental and accessory to the uses set forth in the three immediately preceding subparagraphs.

**28.02.050. Prohibited Uses.**

Except uses established before the effective date of this ordinance and used continuously and in the same manner thereafter, which uses may continue, on or after the effective date of this ordinance, the following uses or conditions shall be and hereby are prohibited within groundwater protection zones, regardless of whether such uses or conditions may otherwise be included as part of a use allowed under Section 28.02.040 of this ordinance:

A. Zones 1 and 2.

1. Sanitary sewer lines within 150 feet of a wellhead or spring collection area.

2. Underground storage tanks.

3. Storm water infiltration structures.

4. Any pollution source as defined herein or in R-113 of the Utah Administrative Code.

B. Zones 1, 2 and 3. Agriculture industries including, but not limited, intensive feeding operations such as feed lots, dairies, fur breeding operations, poultry farms, etc.

C. All Zones.

1. Surface use, storage, or dumping of hazardous waste or material, expressly including industrial or commercial uses of agricultural pesticides (except when such pesticides are used in farming applications within strict compliance of the manufacturer's recommendations of use, subject to inspection by local officials).

2. Sanitary landfills.

3. Hazardous waste or material disposal sites.

4. Septic tanks/drain field systems.

D. If the opinion of the Brigham City Public Works Department, a literal interpretation of the prohibitions provided in ordinance 97-02, codified as Section 28.02.050 would work a hardship and the use would comply with the rules and provisions of the State of Utah administrative rules for public drinking water systems, then Brigham City may allow such use upon request of any interested party, developer, or land user, provided that the proposed use does not violate the provisions established by the State of Utah Rules for Public Drinking Water Systems.<sup>3</sup>

**28.02.060. Administration.**

The policies and procedures or administration of any source protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for Brigham City, Utah, as the same is presently enacted or may from time to time be amended.<sup>4</sup>

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<sup>3</sup> Ordinance No. 98-56, 12/10/98

<sup>4</sup> Section 28.02 added with adoption of Ordinance No. 97-02, 1/9/97